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07-CV-01484-CMP

FILED
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SEP 2 2007
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BENTLEY MOTORS LIMITED
CORPORATION, a United Kingdom company
and BENTLEY MOTORS, INC., a Delaware
corporation,

Plaintiffs,

vs.

BENTLEYUSA.COM, an Internet Domain
Name, and BENTLEYONLINE.COM, an
Internet Domain Name,

Defendants.

NO. 07-1484

VERIFIED COMPLAINT FOR
INJUNCTIVE RELIEF

1. CYBERPIRACY
(15 U.S.C. §1125(d))

SEA 12274 Sills

Plaintiffs Bentley Motors Limited Corporation and Bentley Motors, Inc. (collectively
"Plaintiffs") allege the following in support of their in rem claim against the Internet
Domain Names BENTLEYUSA.COM and BENTLEYONLINE.COM (the "Bentley
Domain Names"):

I. NATURE OF THE ACTION

1. Plaintiffs file this in rem action asserting a claim for cyberpiracy under the
Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. §1125 et seq.

2. This lawsuit involves quintessential cyberpiracy. The registrant
("Registrant") of the Bentley Domain Names is attempting to coerce Plaintiffs into paying in

Verified Complaint for Injunctive Relief
Page 1 of 7

HILLIS CLARK MARTIN &
PETERSON, P.S.

500 Galland Building, 1221 Second Ave
Seattle WA 98101-2925
206.623.1745; fax 206.623.7789

ORIGINAL

1 excess of \$30,000.00 for the transfer of the Bentley Domain Names, and is using them to
2 intercept confidential email messages intended for employees of Bentley Motors, Inc.

3 3. This is the precise scenario that the ACPA was enacted to combat--to prevent
4 cyberpirates from registering domain names incorporating distinctive trademarks and then
5 attempting to extort money from the trademark holder in exchange for the domain names.

6 4. In bringing this lawsuit, Plaintiffs seek a preliminary and permanent
7 injunction transferring the Bentley Domain Names to Plaintiffs.

8 II. JURISDICTION AND VENUE

9 5. This Court has subject matter jurisdiction over this claim pursuant to 28
10 U.S.C. §§1331 and 1338(a).

11 6. This Court has in rem jurisdiction over the domain name pursuant to 15
12 U.S.C. §1125(d)(2)(A)(ii)(I) in that plaintiffs cannot obtain in personam jurisdiction over the
13 Registrant of the Bentley Domain Names because the Registrant is located outside of the
14 United States. In rem jurisdiction is proper in this district pursuant to 15 U.S.C.
15 §1125(d)(2)(C)(i) because the domain name registrar is located in this district. Further,
16 under 15 U.S.C. §1125(d)(2)(C)(ii), upon commencement of this case, documents sufficient
17 to establish control and authority regarding the disposition of the registration and use of the
18 domain names will be expeditiously deposited with the Court.

19 7. Venue is proper in this district under 15 U.S.C. §1125(d)(2)(A) & (C)
20 because eNom, Inc. ("eNom") is the registrar of the BENTLEY Domain Names and eNom
21 is located in this district. A copy of the WHOIS record for BENTLEYUSA.COM and
22 BENTLEYONLINE.COM, which shows eNom as the registrar, is attached hereto as
23 EXHIBIT A

24 III. THE PARTIES

25 8. Plaintiff Bentley Motors Limited is a corporation organized and existing
26 under the laws of the United Kingdom, with its principal place of business in Crewe, United
27 Kingdom.
28

1 9. Plaintiff Bentley Motors, Inc. is a corporation organized and existing under
2 the laws of the state of Delaware, with its principal place of business in Auburn Hills,
3 Michigan.

4 10. BENTLEYUSA.COM and BENTLEYONLINE.COM, the defendant domain
5 names, are registered to David Hill (the "Registrant"). The WHOIS database shows that Mr.
6 Hill's address is Hangar3 Lodge Farm, Earls Colne Airfield, Nightingale Hall Road, Earls
7 Colne, CO6 2NR, Great Britain.

8 IV. FACTUAL BACKGROUND

9 A. Plaintiffs' Trademark Rights

10 11. Plaintiffs are the owners of registrations for the trademark BENTLEY both in
11 the United States and in other countries throughout the world. Plaintiffs have used the
12 trademark BENTLEY® in connection with Plaintiffs' business of manufacturing and selling
13 luxury vehicles and related goods and services. Plaintiffs have used the BENTLEY®
14 trademark in commerce continually since 1935. Plaintiffs first acquired a registration for the
15 BENTLEY trademark in the United States in 1956 as trademark registration no. 646,403.
16 Plaintiffs are also the owners of United States trademark registration nos. 645,703 and
17 2,985,659. These registrations are valid, unrevoked, subsisting, and incontestable, and
18 constitute prima facie evidence of Bentley's exclusive ownership of the BENTLEY® mark.
19 Copies of the registration certificate for Plaintiff's United States trademark registrations for
20 BENTLEY® are attached as EXHIBIT B.

21 12. Plaintiffs have spent millions of dollars and have expended significant effort
22 in advertising, promoting, and developing the BENTLEY® trademark throughout the world.
23 As a result of such advertising and expenditures, Plaintiffs have established considerable
24 goodwill in the BENTLEY® trademark. The mark has become widely known and
25 recognized throughout the world as a symbol of high quality automobiles and service. The
26 BENTLEY® trademark is world-famous and distinctive and is associated by the consuming
27
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1 public exclusively with Plaintiffs. The BENTLEY® trademark and its associated goodwill
2 are invaluable assets of substantial worth to Plaintiffs.

3 **B. Cyberpiracy of BENTLEYUSA.COM**

4 13. The Bentley Domain Names were registered in bad faith and are being used
5 in bad faith under the ACPA. Bad faith intent may be shown under the ACPA by proof that
6 the registrant sought "to divert consumers from the mark owner's online location to a site
7 accessible under the domain name" or by evidence of an "offer to transfer, sell, or otherwise
8 assign the domain name to the mark owner or any third party for financial gain without
9 having used, or having an intent to use, the domain name in the bona fide offering of any
10 goods or services..." 15 U.S.C. § 1125(d)(1)(B)(i)(V) & (VI).

11 14. The Registrant of the Bentley Domain Names has exhibited both of these
12 forms of bad faith. Although Registrant is not using the domain names in the operation of
13 an active website or in the bona fide offering of any goods or services, he has repeatedly
14 attempted to sell the Bentley Domain Names to Plaintiffs. His offers to Plaintiffs, moreover,
15 have been premised on Registrant's repeated assertion that these are "logical" domain names
16 for "Bentley Motors" or "Bentley USA" and on the representation that he has diverted or
17 intercepted "hundreds of emails" intended for Plaintiffs, including emails containing "very
18 sensitive information in relation to profits, sales numbers, and build costs."

19 15. With respect to the diverted email, Registrant has proudly asserted that email
20 intended for Plaintiffs is sent to him because email senders often omit the hyphen in
21 Plaintiffs' BENTLEY-USA.COM domain name, which Plaintiffs use for hosting and
22 managing email within Bentley Motors, Inc. Registrant periodically has forwarded email
23 that is intended for Plaintiffs but misdirected to him, emphasizing the close similarity of the
24 two domain names and the fact that BENTLEYUSA.COM suggests a "more logical"
25 connection with Plaintiffs than BENTLEY-USA.COM. At the same time, Registrant
26 repeatedly has touted this actual confusion as the basis for his insistence that Plaintiffs offer
27 a substantial sum in exchange for his sale of the Bentley Domain Names.

1 16. Although Plaintiffs have offered to pay a nominal sum in an attempt to
2 resolve this matter short of litigation, Registrant has refused that offer and has insisted in
3 bad faith on the payment of a substantial sum for the transfer of the Bentley Domain Names.
4 Specifically, Registrant sent Plaintiffs a “valuation,” purportedly from a “web site offering
5 advice on the valuation of domain names,” indicating that the value of
6 BENTLEYUSA.COM was between \$34,000 and \$52,000.

7 17. Registrant’s communications are powerful evidence of his bad faith intent to
8 profit from the value of the BENTLEY® trademark in his registration and use of the Bentley
9 Domain Names. To the extent the Bentley Domain Names have significant value, it is
10 precisely because of their apparent connection—and confusing similarity—with the
11 BENTLEY® mark and with Plaintiffs’ own domain names. Registrant is attempting to
12 profit from the goodwill in the BENTLEY® mark. He is also attempting to profit from the
13 confusing similarity between BENTLEYUSA.COM and BENTLEY-USA.COM, as his own
14 email communications indicate.

15 18. The Registrant is not authorized by Plaintiffs to use the BENTLEY
16 trademark, and to Plaintiffs’ knowledge, never has used the name Bentley in connection
17 with any bona fide offering of goods or services.

18 V. CLAIM FOR RELIEF

19 A. Cyberpiracy

20 19. The allegations set forth above are incorporated herein by this reference.

21 20. The actions described above evidence bad faith intent to profit from the
22 registration and/or use of Plaintiffs’ internationally famous BENTLEY® trademark in
23 internet domain names.

24 21. The registrant of the Bentley Domain Names has registered, trafficked in,
25 and/or used a trademark that was famous at the time of registration of the domain name and
26 was identical or confusingly similar to or dilutive of Plaintiffs’ BENTLEY® trademark.
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1 22. Plaintiffs are entitled to an order and injunction immediately transferring the
2 Bentley Domain Names to Plaintiffs.

3 WHEREFORE, Plaintiffs pray for judgment as follows:

4 A. That the Internet domain name BENTLEYUSA.COM and
5 BENTLEYONLINE.COM be transferred to Plaintiffs immediately; and

6 B. For such other relief as the Court may consider just and proper.

7 DATED this 24th day of September, 2007.

8
9 HILLIS CLARK MARTIN & PETERSON, P.S.

10
11 By 

12 Michael R. Scott, WSBA #12822
13 1221 Second Avenue, Suite 500
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Attorneys for Plaintiffs
Bentley Motors Limited Corporation and
Bentley Motors, Inc.

25 #361569 19299-002 7qzl011.doc 9/24/07

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VERIFICATION

David Henderson, under penalty of perjury of the laws of the United States, states:

That he is an Information Technology Manager for Bentley Motors, Inc.; that he has read, is familiar with, and has personal knowledge of the contents of the foregoing Verified Complaint and that the allegations thereof are true and correct. To the extent that matters are not within his personal knowledge, the facts stated therein have been assembled by authorized personnel, including counsel, and he is informed that the facts stated therein are true and correct.

Executed this 18th day of September 2007 in Auburn Hills, Michigan


DAVID HENDERSON

NetworkSolutions

Login

Customer Service
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Your cart is empty

WHOIS Search Results



Available bentleyusa extensions:

.org	.mobi	.de	.tv	.co.uk	.au	.bz
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Order Selected Domain(s)

WHOIS Record For



bentleyusa.com

Services from Network Solutions:

- Certified Offer Service - Let us help you get this domain name!
- Backorder - Try to get this name when it becomes available
- SSL Certificates - Get peace of mind with a secure certificate

SAVE over 70%

when you TRANSFER your domains to Network Solutions — your trusted domain name provider!

Go

Choose Your Domain Name Provider Wisely and Transfer Domains for \$9.99/yr

Learn the do's and don'ts of search engine optimization. Download our *Guide to Getting Found Online* now.

Visit AboutUs.org for more information about BENTLEYUSA.COM
AboutUs: BENTLEYUSA.COM

Registration Service Provided By: Renaissance Associates, Inc
Contact: RADomains@earthlink.net
Visit: <http://www.totalwebconcepts.com>

Domain name: BENTLEYUSA.COM

Administrative Contact:
Bentley Systems UK
David Hill (uk@lapematic.com)
+44 7836626133
Fax: +44 1787224843
Hangar3 Lodge Farm
Earls Colne Airfield, Nighthingale Hall Road
Earls Colne, CO6 2NR
GB

Technical Contact:
Bentley Systems UK
David Hill (uk@lapematic.com)
+44 7836626133
Fax: +44 1787224843
Hangar3 Lodge Farm
Earls Colne Airfield, Nighthingale Hall Road

When you register a domain name, current policies require that the contact information for your domain name registration be included in a public database known as WHOIS. To learn about actions you can take to protect your WHOIS information visit www.internetprivacyandvocable.org

NOTICE AND TERMS OF USE: You are not authorized to access or query our WHOIS database through the use of high-volume, automated electronic processes or for the purpose or purposes of using the data in any manner that violates these terms of use. The Data in Network Solutions' WHOIS database is provided by Network Solutions for information purposes only and to assist persons in obtaining information about or related to a domain name registration record. Network Solutions does not guarantee its accuracy. By submitting a WHOIS query, you agree to abide by the following terms of use: You agree that you may use this Data only for lawful purposes and that under no circumstances will you use

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TOP SECRET

EXHIBIT

A

8

Earls Colne CO6 2NR
GB

Registrant Contact:
Bentley Systems UK
David Hill (uk@lapemall.com)
+44 7836626133
Fax: +44 1787224813
Hangar3 Lodge Farm
Earls Colne Airfield, Nighthale Hall Road
Earls Colne. CO6 2NR
GB

Status: Locked

Name Servers:
dns1 name-services.com
dns2 name-services.com
dns3 name-services.com
dns4 name-services.com
dns5 name-services.com

Creation date: 25 Jul 2004 18:27:40
Expiration date: 25 Jul 2008 18:27:40

The data in this whois database is provided to you for information purposes only. That is, to assist you in obtaining information about or related to a domain name registration record. We make this information available "as is," and do not guarantee its accuracy. By submitting a whois query, you agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (1) enable high volume, automated, electronic processes that stress or load this whois database system providing you this information; or (2) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via direct mail, electronic mail, or by telephone. The compilation, repackaging, dissemination or other use of this data is expressly prohibited without prior written consent from us.

We reserve the right to modify these terms at any time. By submitting this query, you agree to abide by these terms.
Version 6.3 4/3/2002

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

Show underlying registry data for this record

Current Registrar: ENOM, INC
IP Address: 1.1.1.1 (ARIN & RIPE IP search)
IP Location: (-)
Record Type: Domain Name
Server Type: Indeterminate
Lock Status: clientDeleteProhibited
BMOZ no listings



Search

SEARCH AGAIN

Enter a search term:

e.g. networksolutions.com

Search by:

- Domain Name
- NIC Handle
- IP Address

9

Y! Directory: see listings
Secure: No
E-commerce: No
Traffic Ranking: Not available
Data as of: 14-Jun-2005

[Search](#)



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J.D. Power and Associates

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Int. Cl.: 12

Prior U.S. Cl.: 19

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 646,403

Registered June 4, 1957

Renewal Term Begins June 4, 1997

TRADEMARK
PRINCIPAL REGISTER

BENTLEY

BENTLEY MOTORS LIMITED (UNITED
KINGDOM CORPORATION)
PYMS LANE
CREWE, CHESHIRE ENGLAND CW1
3PL. BY CHANGE OF NAME FROM
BENTLEY MOTORS (1931) LIMITED
(GREAT BRITAIN CORPORATION)
LONDON, ENGLAND

OWNER OF U.S. REG. NOS. 342,062
AND 362,541
SEC. 2(P).

FOR: AUTOMOBILE AND STRUC-
TURAL PARTS THEREOF, IN CLASS 19
(INT. CL. 12).
FIRST USE 8-8-1919; IN COMMERCE
8-8-1935

SER. NO. 72-006,116. FILED 4-13-1956

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Sep. 9, 1997.*

EXHIBIT B

United States Patent Office

646,403
Registered June 4, 1957

PRINCIPAL REGISTER Trademark

Ser. No. 6,316, filed Apr. 13, 1956

BENTLEY

Bentley Motors (1931) Limited (British corporation)
16 Conduit St.
London, W.1, England

For: AUTOMOBILE AND STRUCTURAL PARTS
THEREOF, in CLASS 19.
First use 1919; in commerce 1935.
Sec. 2(f).
Owners of U. S. Reg. No. 342,062 and 362,541.

Int. Cl.: 7

Prior U.S. Cl.: 23

Reg. No. 645,703

United States Patent and Trademark Office

Registered May 21, 1957

10 Year Renewal

Renewal Term Begins May 21, 1997

TRADEMARK
PRINCIPAL REGISTER

BENTLEY

BENTLEY MOTORS LIMITED (UNITED
KINGDOM CORPORATION)
FVMS LANE CREWE
CW1 3PL CHESHIRE, ENGLAND. BY
CHANGE OF NAME FROM BENTLEY
MOTORS (1931) LIMITED (GREAT
BRITAIN CORPORATION) LONDON,
W 1, ENGLAND

OWNER OF U.S. REG. NOS. 342,062
AND 361,541
SEC. 2(F).

FOR: INTERNAL COMBUSTION EN-
GINES AND PARTS THEREOF. IN
CLASS 23 (INT. CL. 7).
FIRST USE 0-0-1919; IN COMMERCE
0-0-1935.

SER. NO. 12-006,317, FILED 4-13-1956

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Aug. 26, 1997.*

COMMISSIONER OF PATENTS AND TRADEMARKS

United States Patent Office

645,703
Registered May 21, 1957

PRINCIPAL REGISTER Trademark

Ser. No. 6,317, filed Apr. 13, 1956

BENTLEY

Bentley Motors (1931) Limited (British corporation)
16 Conduit St.
London, W. 1, England

For: INTERNAL COMBUSTION ENGINES AND
PARTS THEREOF, in CLASS 23.
First use in 1919; in commerce in 1935.
Sec. 2(f).
Owner of U. S. Reg. Nos. 342,062 and 361,541.

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

Reg. No. 2,985,659

United States Patent and Trademark Office

Registered Aug. 16, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

BENTLEY

BENTLEY MOTORS LIMITED (UNITED KING-
DOM LTD LIAB CO)
PYMS LANE, CREWE, CHESHIRE
CW1 3PL, UNITED KINGDOM

FIRST USE 2-0-2003; IN COMMERCE 2-0-2003.

OWNER OF U.S. REG. NO 646,403.

FOR: AUTOMOBILE FINANCING SERVICES,
NAMELY, CREDIT CONSULTING AND LOAN
SERVICES FOR RETAIL PURCHASE AND/OR
LEASE OF AUTOMOBILES , IN CLASS 36 (U.S.
CLS 100, 101 AND 102)

SN 76-087,129, FILED 7-12-2000.

PAULA MAHONEY, EXAMINING ATTORNEY